

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

STATE OF MISSOURI, ex rel.)
MISSOURI HIGHWAYS AND)
TRANSPORTATION COMMISSION) Cause No.:
)
 Plaintiff,) Circuit Court – St. Louis County
) Cause No.: 09SL –CC00136
vs.) Division 8
)
 EAGLE POINT SOFTWARE)
 CORPORATION) **JURY TRIAL DEMANDED**
)
 Defendant.)

MOTION TO STAY DISCOVERY RESPONSES
UNTIL RULE 16 SCHEDULING ORDER

COMES NOW Defendant, Eagle Point Software Corporation, and for its Motion to Stay Discovery, states to the Court the following:

1. On or about January 9, 2009, Plaintiff Missouri Highways and Transportation Commission (hereinafter “MHTC”) filed an original petition in the Circuit Court of St. Louis County, Missouri claiming breach of contract and product liability arising from a fire that occurred in St. Louis County on or about February 7, 2008. A copy of said Petition in Cause 09SL –CC00136 is attached and incorporated to Defendant’s Motion for Removal as Exhibit A.
2. Plaintiff’s Petition was served on Defendant on January 28, 2009.
3. Along with its Petition, Plaintiff served its First Interrogatories and First Request for Production of Documents upon Defendants. See Exhibit A of Defendant’s Motion for Removal.
4. Defendants have presently filed a Motion for Removal from the Circuit Court of St. Louis County to the United States District Court - Eastern District of Missouri.

5. Neither party shall be prejudiced by this court entering a stay of discovery responses until a Rule 16 Scheduling Order can be entered.

BROWN & JAMES, P.C.

/s/ Russell F. Watters
Russell F. Watters, #4653
Sean P. Hadican, #504809
Attorneys for Defendants
1010 Market Street, 20th Floor
St. Louis, Missouri 63101-2000
314-421-3400
314-421-3128 – FAX
rwatters@bjpc.com
shadican@bjpc.com

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was sent via U.S. Mail, postage prepaid this 18th day of February, 2009, to: Theresa A. Otto, 4600 Madison Ave., Ste. 210, Kansas City, MO 64112-3012; and Jaudon R. Godsey, 231 South Bemiston Ave., Ste. 230, St. Louis, MO 63105, *Attorney for Plaintiff*.

/s/ Russell F. Watters